

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Implementation of Sections 309(j) and 337)	WT Docket No. 99-87
of the Communications Act of 1934 as)	
Amended)	
)	
Promotion of Spectrum Efficient)	RM-9332
Technologies on Certain Part 90 Frequencies))	

To: The Commission

PETITION FOR STAY

The Association of Public-Safety Communications Officials-International, Inc. (“APCO”), the International Association of Fire Chiefs, Inc., and the International Municipal Signal Association (“IAFC/IMSA”), International Association of Chiefs of Police (“IACP”), Major Cities Chiefs Association (“MCCA”), National Sheriffs’ Association (“NSA”), Major County Sheriffs’ Association (“MCSA”), and the National Public Safety Telecommunications Council (“NPSTC”)¹ (collectively referred to herein as “Petitioners”), pursuant to Section 1.429(k) of the Commission’s rules, hereby request that the Commission stay the effective date of rules adopted in the *Second Report and Order*, FCC 03-34 (released February 25, 2003), 68 Fed. Reg. 42296 (July 17, 2003), in

¹ The members of NPSTC include: American Association of State Highway and Transportation Officials, American Radio Relay League, American Red Cross, Association of Public-Safety Communications Officials-International, Forestry Conservation Communications Association, International Association of Chiefs of Police, International Association of Emergency Managers, International Association of Fire Chiefs, International Association of Fish and Wildlife Agencies, International Municipal Signal Association, National Association of State Emergency Medical Services Directors, National Association of State Telecommunications Directors, and National Association of State Foresters.

the above-captioned proceeding (hereinafter “*Second R&O*”), pending resolution of the petitions reconsideration of petitioners and other parties.²

The Petitioners have filed a Petition for Reconsideration of certain portions of the *Second R&O*, as have numerous other parties. Petitioners argue that several aspects of the *Second R&O* could undermine interoperability among public safety agencies, and impose substantial costs on state and local governments. Of particular, immediate, concern are new rules providing that, as of January 13, 2004, applications to modify licenses to expand the coverage area of existing radio systems will only be approved for narrowband (12.5 kHz) operation.³ That requirement will make it impossible for many 25 kHz public safety systems to expand operations without replacing, prematurely, their entire radio systems.

The *Second R&O* also limits applications for new radio systems, as of January 13, 2004, to 12.5 kHz operation. That requirement is problematic insofar as it would also apply to new public safety radio systems that must maintain interoperability though established 25 kHz “mutual aid” channels.

If left in place, the January 13, 2004 requirements in the *Second R&O* will lead to irreparable harm to state and local governments and to the general public. Agencies could be forced to forgo essential system expansions, potentially endangering the safety of life and property. Such expansions are often necessary to address changes in jurisdictional boundaries, population shifts, development of multi-agency interoperability systems, and to fill dangerous gaps in signal coverage. The only alternatives are to

² Petitioners also support the Petition for Stay of the Association of American Railroads (AAR) and the Motion for Partial Stay of the American Petroleum Institute and United Telecom Council (API/UTC).

³ See 68 Fed. Reg. 42296, 42314 (July 17, 2003).

implement incompatible communications operations, which will destroy interoperability, or replace prematurely entire radio systems, which will drain scarce public resources.

A stay is further justified as the petitioners are likely to succeed on the merits. Nearly every element of the public safety and private land mobile community and all major equipment manufacturers have joined in one or more petitions for reconsideration of the *Second R&O*. A common issue in most of the petitions is the need to permit system modifications with compatible radio equipment, and nearly all of the petitioners object to the January 13, 2004, deadline for modifications to existing systems that include expanded coverage.

The Commission may stay the effective date of new rules upon “good cause shown.” 47 C.F.R. §1.429(k). As discussed above, in the AAR Petition for Stay, the API/UTC Motion for Partial Stay, and in the many petitions for reconsideration, the public interest will be harmed if the Commission imposes the January 13, 2004, deadline set forth in the *Second R&O*. A stay of that date is necessary at this time, as Commission resolution of the petitions for reconsideration is unlikely to occur prior to January 13, 2004. In the meantime public safety and other land mobile radio licensees must proceed with planned system modifications and new system deployments, and require certainty as to the specific rules that will govern their applications.

CONCLUSION

Therefore, for the reasons set forth above, the Commission should stay the effective date of the *Second R&O* in the above-captioned proceeding.

Respectfully submitted,

ASSOCIATION OF PUBLIC-SAFETY
COMMUNICATIONS OFFICIALS-
INTERNATIONAL, INC.

Robert M. Gurss
Director, Legal & Government Affairs
APCO International
1725 DeSales Street, NW
Suite 808
Washington, DC 20336
202-833-3800

INTERNATIONAL ASSOCIATION OF
CHIEFS OF POLICE

Chief Joseph Samuels, Jr., President
515 N. Washington Street
Alexandria, VA 22314
703-838-6767

INTERNATIONAL ASSOCIATION OF
FIRE CHIEFS (IAFC) AND
INTERNATIONAL MUNICIPAL SIGNAL
ASSOCIATION (IMSA)

Martin W. Bercovici, Esq.
Keller and Heckman LLP
1001 G Street, NW, Suite 500 W
Washington, DC 20001
202-434-4144
Their Attorney

MAJOR CITIES CHIEFS ASSOCIATION
(MCC)

Chief Harold L. Hurtt, President
c/o Phoenix Police Department
620 West Washington Street
Phoenix, AZ 85003
602-262-6747

MAJOR COUNTY SHERIFFS'
ASSOCIATION (MCSA)

Sheriff Kevin E. Beary, President
c/o Orange County Sheriff's Office
2400 West 33rd Street
Orlando, FL 32839
407-836-3701

NATIONAL SHERIFFS' ASSOCIATION
(NSA)

Sheriff Wayne V. Gay, President
1450 Duke Street
Alexandria, VA 22314-3490
703-836-7827

NATIONAL PUBLIC SAFETY
TELECOMMUNICATIONS COUNCIL

Marilyn Ward, Chair
2050 E. Iliff Avenue
Denver, CO 80208

August 29, 2003